

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Terron Gerhard Dizzley,)	
)	
Petitioner,)	C.A. No. 8:20-00126-JD-JDA
)	
vs.)	OPINION & ORDER
)	
Warden Stephon,)	
)	
Respondent.)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.¹ (DE 8.) Petitioner Terron Gerhard Dizzley (“Dizzley”), a state prisoner, proceeding pro se, brings this habeas corpus action pursuant to 28 U.S.C. § 2254. (DE 1.) Dizzley presents claims similar to those raised in a post-conviction relief (“PCR”) action he filed in Georgetown County Court of Common Pleas at case number 2015-CP-22-00845. In her Report and Recommendation, Magistrate Judge Austin recommends that this action be dismissed without prejudice and without requiring the Respondent to file an answer or return.

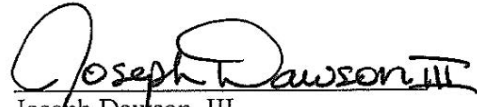
Dizzley filed objections to the Report and Recommendation. (DE 11.) However, upon review, the court finds that Dizzley’s objections are moot because Dizzley failed to exhaust his

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

administrative remedies as similar claims made by Dizzley are pending in state court. See Dizzley v. State of South Carolina, No. 2015-CP-22-00845 (“*Dizzley PCR Action*”).¹ In light of these pending actions, this Court lacks jurisdiction to adjudicate the claims before the Court.² Therefore, after a thorough review of the magistrate judge’s Report and the record in this case, the court adopts Magistrate Judge Austin’s Report and Recommendation and incorporates it herein by reference.

It is therefore **ORDERED** that the Petitioner’s action be dismissed without prejudice and without requiring the Respondent to file an answer or return; further, it is **ORDERED** that a certificate of appealability is denied because Defendant has failed to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.


Joseph Dawson, III
United States District Judge

Greenville, South Carolina
March 9, 2021

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹ Available at <https://publicindex.sccourts.org/Georgetown/PublicIndex/PISearch.aspx> (search case number “2015CP2200845”) (last visited Feb. 2, 2020); *see also*, <https://ctrack.sccourts.org/public/caseView.do?csIID=71679> (last visited Feb. 2, 2021).

² By the filing of this Order, the Court also dismisses as moot Petitioner’s Motion to Amend Issuance of Show Cause Order (DE 32) and Motion to Amend (DE 34) without further Order.